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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
weSTERN DIVISION**

KENNETH RICHARD BARBER, JR., )

Plaintiff, )

v. )

SANTA MARIA POLICE DEPARTMENT, )  
et al., )

Defendants. )

Case No. CV 08-06273-DDP (MLG)

ORDER ACCEPTING AND ADOPTING  
FINDINGS AND RECOMMENDATIONS OF  
UNITED STATES MAGISTRATE JUDGE

17 Pursuant to 28 U.S.C. § 636(b)(1)(C), the Court has reviewed the  
18 complaint, the motion to dismiss, and all of the records and files  
19 herein and has conducted a de novo review of that portion of the  
20 Report and Recommendation of the United States Magistrate Judge to  
21 which objections were filed. The Court accepts and adopts the findings  
22 and recommendations in the Report and Recommendation and ORDERS that:

23 1. Plaintiff's Fourteenth Amendment claims against Defendants  
24 Macagni and Lavagnino for failure to adequately respond to Plaintiff's  
25 citizen complaint are **DISMISSED WITH PREJUDICE**.

26 2. Defendants' motion to dismiss Plaintiff's Fourth Amendment  
27 claim against Defendant Macagni for failure to train and/or supervise  
28 is **DENIED**.

1        3. Defendants' motion to dismiss Plaintiff's Fourth and  
2 Fourteenth Amendment claims against Defendants Lopez and an Unknown  
3 Santa Maria Police Officer related to the investigatory stop is  
4 **DENIED.**

5        4. Defendants' motion to dismiss Plaintiff's Fourth and  
6 Fourteenth Amendment claims against Defendant Lopez for the vehicular  
7 stop on June 25, 2007 is **DENIED.**

8        5. Plaintiff's Fourth and Fourteenth Amendment claims against  
9 Defendant Lopez related to Plaintiff's arrest on June 25, 2007 are  
10 **DISMISSED WITH PREJUDICE.**

11        6. Plaintiff's Eighth Amendment claim against Defendants Lopez,  
12 Duarte, Barroca and Masters are **DISMISSED WITH PREJUDICE.**

13        7. Plaintiff's Fourth and Fourteenth Amendment claims against  
14 Defendant Masters are **DISMISSED WITH PREJUDICE.**

15        8. Plaintiff's Fifth and Sixth Amendment claims against Defendant  
16 Lopez regarding the coerced confession and denial of right to counsel  
17 are **DISMISSED WITH PREJUDICE.**

18        9. Defendants' motion to dismiss the Fourth Amendment claims  
19 against Defendants Lopez, Duarte and Barroca for use of excessive  
20 force is **DENIED.**

21  
22 Dated: August 17, 2009

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26 Dean D. Pregerson  
27 United States District Judge  
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